

## STREET TRADING & MARKETS POLICY

<b>Cabinet Member</b>	Cllr Jonathan Bianco
<b>Cabinet Portfolio</b>	Finance, Property and Business Services
<b>Officer Contact</b>	Stephanie Waterford, David Frost, Nigel Dicker – Planning, Environment, Education and Community Services
<b>Papers with report</b>	Appendix A – Final draft Street Trading & Markets Policy. Appendix B – Summary sheet of consultation responses. Appendix C – Consultation responses.

### HEADLINE INFORMATION

<b>Purpose of report</b>	This report seeks approval to implement the final draft Street Trading and Markets Policy following the conclusion of consultation with stakeholders.
<b>Contribution to our plans and strategies</b>	This report contributes to the Council's priority of a Clean and Attractive Borough and a Safe Borough.
<b>Financial Cost</b>	Any costs associated with the introduction of the Policy can be met from existing budgets.
<b>Relevant Policy Overview Committee</b>	Residents & Environmental Services.
<b>Ward(s) affected</b>	All

### RECOMMENDATION

That Cabinet:

- 1) Approves the amended Street Trading & Markets Policy as set out in Appendix A.
- 2) Agrees an application fee for market licences as set out in this report.

### INFORMATION

At the Cabinet meeting on 26<sup>th</sup> May 2011, a street trading policy report was considered, including a new draft policy for the regulation of street trading and markets.

Cabinet instructed the Deputy Chief Executive and Corporate Director of Planning, Environment, Education & Community Services to carry out a public consultation with stakeholders, regarding a draft Street Trading & Markets Policy, which gives the Council's detailed approach to the regulation of these activities in the borough.

Consultees included street traders; key stakeholders, including Police, Fire Authority & internal council services; community event organisers; Street Champions, etc.

Officers from the Licensing Service also met individually with a number of key stakeholders reflecting traders, residents associations & community groups and market operators, to discuss the proposed policy. A total of 5 responses were received from the following consultees;

- Mr Martin Green, Team Leader, Hillingdon, Hounslow, Harrow Fire Safety Team, LFEPA.
- Mr Philippe Bassett, Savoir Fayre Continental Markets.
- Mr Glyn Craddock, Uxbridge Station Flowers, Licensed permanent pitch street trader.
- Mr Ian Parkinson, Eastcote Residents Association, and organiser of the Eastcote Christmas event.
- Mr Les Drussell, Ruislip Manor Chamber of Commerce & Organiser of the Ruislip Manor Fun Day.

A detailed summary of relevant consultation responses is included in Appendix B. The summary also identifies amendments made to the proposed policy, as a result of the comments. Copies of the actual consultation responses are included as Appendix C. In the final proposed draft of the policy (Appendix A) Additions or amendments following the consultation exercise are shown in ***bold italic*** and deletions are shown as "strike through" text.

## Fees

It is important to note that the street trading licence fees under the London Local Authorities Act 1990 (*including shop fronts, tables and chairs and street pitches*), which were approved and set by Cabinet in April 2011 are unaffected and will remain in place until the next fee review, later in this financial year.

The proposed introduction of charges for markets under the Food Act 1984 allows the Council to charge a fee to market traders. Therefore a new fee for markets must be set. Benchmarking information has been obtained from other London authorities, and consideration given to the range of views from consultees on this matter. It is proposed to apply the following fees to markets:

<b>Fees for Market Licence in Uxbridge Town Centre per day</b>	<b>Fees for Market Licence in all other areas of the borough per day</b>
£750 for up to 50 stalls	£500 for up to 50 stalls
Additional £250 for every further 50 stalls	Additional £250 for every further 50 stalls

It should also be noted that S.18 of the policy allows the Council to grant waivers of market licence fees for charitable or community events, where the principal part of the event is community based, bringing social and economic benefits.

## **Financial Implications**

The introduction of a street trading & markets policy has no direct financial implications for the Council. The implementation of a licence fee for markets is in line with statute and can be reviewed as part of the Council's annual consideration of fees and charges.

## **EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

The introduction of a street trading & markets policy will create a simpler, more streamlined system of regulation for street trading and markets. The policy will reduce administrative burdens and delays, and provide an easier way for community trading events to be operated. The terms and conditions have been reviewed, made more accessible, and rationalised.

## **Consultation Carried Out or Required**

Officers of the Licensing Service carried out the 28 day consultation between 8<sup>th</sup> June and 5<sup>th</sup> July 2011. Legal notices were placed in the local press on 8<sup>th</sup> & 15<sup>th</sup> June 2011 as required by Section 27 of the London Local Authorities Act 1990 (as amended).

Consultees included current and past street traders; key stakeholders including Police, Fire Authority & internal Council Services; Community Event organisers; Street Champions etc. Officers have met with a number of consultees, to discuss the policy.

There is no statutory requirement for the Council to consult on the market fees proposed under the Food Act 1984, although the Council must act reasonably in the decision making process.

The London Local Authorities Act 1990 (as amended) requires that a consultation period of 28 days must be allowed before a decision is made by the Cabinet. Following the consultation period, any decision taken by Cabinet will be published in a local newspaper on two consecutive weeks. It is anticipated that if approved, the proposals will be brought in to force in early September 2011.

## **CORPORATE IMPLICATIONS**

### **Corporate Finance**

Corporate Finance has reviewed this report and is satisfied that any costs associated with the introduction of the policy will be met from existing budgets and that there are no wider financial implications arising from the recommendations of this report. The proposed licence fees will be reviewed as part of the annual fees and charges process.

### **Legal**

With regards to the street trading and markets policy, this report indicates that officers have observed the statutory consultation procedures required under Section 27 of the London Local Authorities Act 1990, and that any regulations will be effected in accordance with the Act.

The Food Act 1984 allows the Council to demand in respect of the market, such charges as they may from time to time determine. This power is constrained by the usual constraints of decision making by a local authority in that any decisions must be reasonable in all the circumstances. Although there is no statutory requirement to consult on the introduction of charges for markets, officers should consider whether it would represent good practice to carry out consultation with any existing stakeholders.

In considering any consultation responses, decision makers must ensure there is full consideration of all representations arising including those which do not accord with the officer recommendation. The decision maker must be satisfied that responses from the public are conscientiously taken into account.

## **BACKGROUND PAPERS**

None

## Appendix A



# HILLINGDON

## LONDON

**London Borough of Hillingdon**

**Final draft Street Trading & Markets Policy**

***Includes amendments resulting from consultation  
ending 5<sup>th</sup> July 2011***

Effective from xx September 2011  
Made by the London Borough of Hillingdon  
Pursuant to: Section 27(3) of  
London Local Authorities Act 1990 (as amended) and  
Food Act 1984 (Part III)

## Contents

### Paragraph

1.0	Introduction	Page 2
2.0	Intention of the policy	Page 2
3.0	Street trading licences	Page 3
4.0	Eligibility criteria and suitability of applicants	Page 3
5.0	Making an application – the documents needed	Page 3
6.0	Fees	Page 3
7.0	Temporary applications - pitches	Page 4
8.0	Permanent applications - pitches	Page 4
9.0	Succession of licences	Page 4
10.0	Renewals	Page 5
11.0	Variation	Page 5
12.0	Licensing of markets and occasional street markets	Page 5
13.0	A single licence for markets	Page 5
14.0	Occasional street markets	Page 6
15.0	Charity & community markets	Page 6
16.0	“Approval in Principle”	Page 7
17.0	Applications and supporting information	Page 7
18.0	Fees	Page 7
19.0	Consultation and advertisement	Page 8
20.0	Objections	Page 8
21.0	Consideration of applications	Page 8
22.0	Hearings	Page 9
23.0	Decision making & grounds for refusal	Page 9
24.0	Appeals	Page 10
25.0	Duration of licences	Page 11
26.0	Enforcement action	Page 11
27.0	Designation of licence streets	Page 12
28.0	Other legislative considerations	Page 13
29.0	Policy review	Page 13
30.0	Exemptions	Page 13
31.0	Commodities	Page 13
32.0	Ice-cream traders	Page 14
33.0	Definitions	Page 14
34.0	Licence conditions	Page 14
Appendix 1	Schedule of licence streets.	Page 16
Appendix 2	Commodities .	Page 18
Appendix 3	Schedule of streets where mobile or “itinerant” Ice-cream trading is prohibited.	Page 21
Appendix 4	Terms and conditions for all street trading and market Licences.	Page 23
Appendix 5	Conditions specific to tables & chairs licences.	Page 26
Appendix 6	Conditions specific to shop front licences.	Page 27
Appendix 7	Conditions for market <i>operators</i> .	<b>Page 29</b>
<b>Appendix 8</b>	<b>Conditions for market traders.</b>	Page 30

## **1.0 Introduction**

This draft document sets out a final proposal for a Council policy on the regulation of street trading and markets, and a procedure for applications for street trading licences. The policy proposes a simplified process for licensing of street markets and community events and offers a simple prior approval process to support applicants so that their proposals have the greatest chance of success when a final application is made.

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## **2.0 Intention of this policy**

The development of a street trading policy presents an opportunity to encourage small independent businesses and traders and increase employment opportunities, by minimising bureaucratic licensing burdens, but at the same time maintaining sensible levels of public protection and complimenting trading from permanent businesses.

The policy will be reviewed in light of developing practice, guidance and changing legislation as necessary, replaces all previous terms & conditions and covers the regulation of:

- Street trading pitches
- Tables & chairs
- Shop fronts
- Markets
- Community trading events

The policy sets out the Council's approach and requirements clearly, to help applicants and operators. It also aims to guide and re-assure the public, and other public authorities, ensuring transparency and consistency in decision making. This policy is meant as a guide to the Council's decision making process; all relevant factors will be taken into consideration in determining any application.

The grant of a licence for street trading does not override the need for licensees to comply with planning, building control, environmental, consumer protection, health and safety and other legislation. If necessary, the policy will be amended to prevent conflict with other legislation.

## **3.0 Street Trading Licences**

Unless in respect of a market (see para 12.0), street trading licences will be determined under Part III of the London Local Authorities Act 1990 (as amended), referred to as "the Act" in this policy.

- a) Applications can be for permanent or temporary licences.
- b) The term "street trading" covers "pitches" (a defined or licensed area where a stall may be set up), "tables and chairs" – for example serving a café, and "shop fronts" – where there may be a display of goods outside a shop, directly concerned with that shop.
- c) "Street trading" means the sale, and exposing or offering for sale of any article (including a living thing) in a street. A display of goods or services within seven metres of the Highway will require a street trading licence.

Street trading without a licence is an offence under licensing and highways legislation.

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#### **4.0 Eligibility criteria & suitability of applicants**

- a) Applicants must be aged 17 years or older.
- b) Suitability will be assessed on a case by case basis and information about an applicant's enforcement history with the Council may be referred to.

#### **5.0 Making an application – the documentation needed**

Applications for street trading licences must be made in writing or online, using the Council's application form, and must include the following;

- a) Two standard full face passport photographs;
- b) Evidence of public liability insurance for a minimum of £2 million cover;
- c) Proof of address;
- d) Identification that includes a photograph of the applicant; (such as a new style photo driving licence)

Sometimes, the Council may be able to accept alternative supporting documents, but by individual agreement.

#### **6.0 Street trading fees**

Fees may be reviewed on an annual basis, and will be advertised in accordance with the legislation. Fees must be paid in full when the application for the grant, renewal, variation or transfer of a street trading licence is made. There will be no refund of licence fees should a licence for any reason become revoked or surrendered.

A list of current street trading and market licence fees can be found on the Council's website [www.hillingdon.gov.uk/licensing](http://www.hillingdon.gov.uk/licensing) or by contacting the Licensing Service on 01895 277524

#### **7.0 Temporary applications - pitches**

All applicants licensed as temporary traders under the London Local Authorities Act 1990 will have the same conditions as those for permanent street trading licences. However, the legislation does not give temporary licence holders the right of appeal to the Council or the relevant committee against a decision not to grant a licence, or to revoke or vary a licence.

The issue of a temporary licence is without prejudice to the Council's application process for a permanent licence – this means that if a trader is issued with a temporary licence, it does not guarantee that a permanent licence will be issued.

The Council reserves the right to issue licences to traders who offer things for sale or goods ("commodities") which will enhance a shopping area or locale, before any other trader or applicant offering other commodities.

The Council reserves the right, *when appropriate*, to suspend the licence of any trader holding a temporary licence, without notice and without any reason having been given in writing at the time. A trader who holds a temporary street trading licence must therefore stop trading straight away, when asked to do so by the Council, or a police officer.

## **8.0 Permanent applications - pitches**

A pitch trader must have traded continuously under a temporary licence for a minimum of three years within the London Borough of Hillingdon prior to applying for a permanent licence.

Permanent licences must be renewed annually. Officers will advise licensees on the period of renewals and applications for permanent licences. However, responsibility for ensuring that a renewal occurs before the expiry of permanent licence lies with the licensee.

## **9.0 Succession of licences**

“Succession” means when a permanent licence is transferred or “passed on” to a relation. There are rules about this in the legislation.

Succession of the street trading licence may only be granted to a relation of the licence holder specified in the legislation and under the following circumstances, listed in the legislation:

- a) When the licensee dies; or
- b) When the licensee retires, having reached the normal age for retirement; or
- c) When the licensee advises the Council that owing to ill-health, he is unable to continue to operate the licence, and submits evidence to satisfy the Council as to his ill-health.

Licensing officers can provide more detail on the subject of succession and it is always best to clarify what may be involved before any assumptions about any entitlement are made.

## **10.0 Renewals**

The licensee must apply to the Council for a renewal, at least 28 days before the current licence’s expiry. If an application for renewal is not granted by the expiry date, then licence lapses, and the trader will have to cease trading.

The Licensing Service will aim to send renewal reminder notices to licensees up to 8 weeks before the date of expiry. No renewals should be accepted after the expiry date and in such cases any application should be treated as a new application, undergoing the full application process. No trading will be permitted unless a renewed licence has been issued.

## **11.0 Variation**

Licensees may apply to the Council to vary their licence at any time during the licence period. Applications may be made to vary the commodities traded, the pitch size and any assistants.

## **12.0 Licensing of Markets and Occasional Street Markets**

The Council is “invoking its market rights” under the Food Act 1984 (as amended) in the Borough.

The Food Act 1984 allows a local authority to establish a market within its area, and may designate a market place within its area and the days and hours during which markets may be held.



### **13.0 A Single Licence for Markets**

The Authority will consider market applications on a case by case basis for markets proposed within the borough boundary to which there is free public access, and which may have multiple stalls or pitches to sell commodities.

The Council will regulate markets under a single licence, as per Part III of The Food Act 1984. Markets held in the following locations are exempt from the market provisions of the Food Act 1984;

- a) Any Council park or green space
- b) Any private building
- c) Enclosed shopping centres
- d) Any school / community / church hall or similar

The licence issued will authorise a number of traders in a particular area, on predetermined days or dates (a market), or where trading takes place from a stall, a series of stalls or pitches, on an occasional basis.

The market licences may be granted to private a market operator(s), residents associations or similar, or community/charitable groups. The Council does need to enforce its market rights in the interests of public safety, and so will determine the area, size of stalls etc and their **general** layout as well as relevant timings for trading to take place. Efforts will always be made to work with operators or groups, to agree and explain matters.

### **14.0 Occasional Street Markets**

Occasional street markets can encourage economic activity and enhance shopping areas by offering variety and by increasing visitor numbers.

A market operator or a group of traders may apply to the market authority for a licence to hold an occasional street market, for commercial trading purposes. This is a market which takes place on specified dates or days.

### **15.0 Charity & Community Markets**

It is recognised that regulation can sometimes have unwanted impacts on residents, businesses and community groups based in the borough. To minimise these burdens, specific arrangements for local community and charitable group events are outlined below.

- a) A charity or community group may apply for a licence to hold a market for the purpose of supporting a community event e.g. a fun day, or Christmas event.
- b) Applications for charity or community markets must identify community or charitable benefit, or provide evidence of charitable status and intention.**
- c) Charity or community applicants ~~may also ask~~ **should apply** to the Council for a waiver of market application fees. The Council will consider any applications for waivers on a case by case basis, and in light of the above.

- d) Where a charity or community event market includes trading by commercial enterprises, ~~other than small sole traders (whose presence at event brings community benefit) then the Council reserves the right to charge the standard fee to these commercial traders~~ **a waiver of fees should also be applied for. Applications will be assessed on a case by case basis, but such events should have an appreciable community element and bring social and economic benefit to an area.**
- e) Licensees must ensure that the terms and conditions that come with the market licence are kept to by the individual traders, that they have adequate insurances, and where sensible, that they have the required food hygiene training and registration certificates.
- f) Charity or community market operators will be required to make their market applications at least three months prior to the market event taking place.
- g) Where road closures are required, **any initial approval in principle will be entirely subject to subsequent approval by** ~~must be obtained from~~ the Highway Authority before the market application is made. Evidence of the approval will be required as part of the market application.

#### 16.0 “Approval in Principle”

The Council wants good, well promoted markets or events to go ahead. To save wasted effort, increase convenience and to ensure that applications have the smoothest possible journey to approval, the Licensing Service will give support in the form of “approval in principle”.

- a) Where early applications are made, not including full details of traders and their commodities, the Council may approve the application in principle, pending full details of the traders and their commodities being submitted, at least two weeks prior to the market event.
- b) Operators or organisers will be able to hold early meetings with licensing officers to encourage general dialogue, discuss proposals and the Council’s requirements, and agree layouts etc, before a full application is made. No fee is to be charged for these meetings. However, it is anticipated that most events will need one, or perhaps two meetings to agree matters.

**Any approval in principle issued by the Council will be subject to other legislative requirements i.e. road closures, parking suspension, alcohol licensing etc.**

#### 17.0 Applications and supporting information

**The Council needs applications for market licences to be of a good standard of competence. The Council may seek references from boroughs in which the market has previously operated, prior to the determination of the licence.** Market operators must make applications using the Council’s own form, or online, and should provide the following information and documents as part of the application;

- a) Two standard full face passport photographs;
- b) Evidence of public liability insurance for a minimum of £2 million cover;
- c) Proof of address;

- d) Identification that includes a photograph of the applicant; (such as a new style photo driving licence)
- e) Plan of the proposed market showing location, sizes and layout of stalls/pitches;
- f) Evidence of or proposals for a trade waste disposal agreement or similar;
- g) Photos/images showing the appearance and style of stall / pitch;
- h) A list of stall / pitch traders and what they want to sell - the commodities – this may be given a minimum of two weeks before the event in the “approval in principle” process.

Sometimes the Council may be able to accept alternative supporting documents, by agreement.

## **18.0 Market Fees**

Market operators for occasional street markets are required to pay a fee in line with the current fee schedule.

Applicants for charity / community markets **should** apply to the market authority for a ~~reduction~~ or waiver of market licence fees. (See S.15) Information on current street trading fees is on [www.hillingdon.gov.uk/licensing](http://www.hillingdon.gov.uk/licensing) or can be obtained from the Licensing Service on 01895 277524.

## **19.0 Consultation and advertisement**

On receipt and acceptance of any application for a new or renewal street trading licence, or application for a variation to an existing one, the Licensing Service will carry out consultation with relevant ward members, town centre management, traders or businesses in the area, and any others in the area that the Council sees as appropriate. The consultation period will be 21 days ***beginning on the day after receipt of the application.***

In addition to the above, for applications for shop front and / or tables and chairs licences, consultation and advertisement will take the form of a “Notice of Application” which must be placed in the window of the relevant premises – so that it can be easily seen from outside. The notice will be at least A4 in size and must be in place and easily visible from the outside, throughout the consultation period.

Where market applications are received, the Licensing Service will carry out consultation with ward members, town centre management, traders / businesses in the area and any others in the area that the Council sees as appropriate. The consultation period will be 21 days ***beginning on the day after receipt of the application.***

## **20.0 Objections**

Objections must be made in writing and made by those persons, bodies, or their representatives, who are likely to be affected (in the “vicinity”, or area) by the operation of the licence. Frivolous, vexatious, repetitious and competition based representations will not be accepted.

E.g. “Vicinity” has the common sense meaning of the word and is taken to mean the area in which objectors who are likely to be affected by the operation of the licence are located. E.g. “Frivolous” objections may be based on a one off issue concerning a licence that has previously been managed well. E.g. “Repetitious” means the objection is identical or substantially similar to an objection already discounted ~~or a ground for review already made~~; E.g. “Vexatious” means the objection is not genuine – i.e. It could have been made as a result of a dispute between neighbouring residents or businesses.

## **21.0 Consideration of Applications**

Applications which have not been objected to will be considered by the Deputy Chief Executive and Corporate Director of Planning, Environment and Education Services or by officers authorised for the purpose of determining street trading applications.

If relevant objections are received during the consultation period for a licence application, a Licensing Sub-Committee will determine the application. Where applications are heard by a Licensing Sub-Committee, the Committee may exercise its discretion on accepting late representations where they have been received outside of the consultation period.

## **22.0 Hearings**

Where the Licensing Sub Committee is to determine an application for the grant, variation or revocation of a street trading licence, the hearing will be held as soon as is reasonably practicable.

Where a permanent trader wishes to appeal a decision to grant/vary or revoke his/her licence, an appeal, and the reasons for the appeal, must be made in writing to the Licensing Service within 21 days of the decision being made. The appeal will be heard by a Licensing Sub-Committee as soon as reasonably practicable.

## **23.0 Decision Making & Grounds for Refusal**

All uncontested applications will be considered by the Deputy Chief Executive and Corporate Director of Planning, Environment, Education and Community Services or by officers authorised for the purpose of determining street trading applications. Where valid objections are received to an application, a Licensing Sub-Committee will determine the application.

The complete application process may take up to three months and this is to take into account the 21 day consultation period, and also, if required, the arrangement of hearings of the relevant Licensing Sub-Committee.

Where there are no objections to an application, the Council aims to determine applications within one month of receipt of a fully completed application.

Standard conditions will be attached to every street trading licence and these may be varied by the Council at any time. Where relevant, specific trading conditions may be attached to a street trading licence by a Licensing Sub-Committee.

In considering applications for the grant or renewal of a street trading licence the following factors will be considered, and may be grounds for refusal, when the authority may refuse a street trading licence application.

- (a) Public safety - Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction of the highway to emergency vehicles, or otherwise, a fire hazard, unhygienic conditions or other danger that may occur when a trader is using the site.

- (b) Prevention of crime and disorder - whether the street trading activity represents, or is likely to represent, a substantial risk to public order. This is potentially more of a problem for licences operating late in the evening.
- (c) Prevention of public nuisance or environmental damage - whether the street trading activity represents, or is likely to represent, a substantial risk of problems from damage to street surfaces, or from noise, litter, refuse, vermin, fumes, odours or antisocial behaviour, particularly in residential areas.
- (d) For markets licensed under the Food Act 1984, appearance and suitability of the stall or vehicle from which trading takes place - the stall or vehicle must be of a good quality design, of good appearance and meet the criteria, including size, laid down in the standard licence conditions. It is advised that applicants provide photographs or sketches including dimensions of the stall with all new applications.
- (e) Needs of the area – amongst other things, the Council will consider the demand for the articles for sale, and the geographical location of the proposed site.
- (f) History of the applicant - the suitability of the applicant must be considered. Previous failures, without reasonable excuse, to comply with licence conditions or failure or neglect in paying licence fees may result in a licence being refused, revoked or not renewed.
- (g) Pedestrian or vehicular access – whether there is sufficient space for pedestrians and vehicles (including pedestrians using mobility aids and parents with pushchairs/buggies) to continue to use the public highway safely and unhindered.

In addition to the considerations listed above, the Council may refuse or revoke a licence if any of the following statutory grounds exist:

- (h) the applicant wishes to trade for less days than any minimum required trading days;
- (i) the applicant has been determined unsuitable to hold a licence do to any previous convictions or for other reasons;
- (j) the licence holder has failed to pay fees due under another street trading licence or have failed to use a previous street trading licence.

Occasionally, if some grounds for refusal do exist, the Council may still decide to award a licence – but this could be for a shorter period than required, or to allow trading only in certain commodities.

## **24.0 Appeals**

A Licensing Sub-Committee will determine appeals from permanent licence holders unhappy with a decision to grant / revoke / vary their street trading licence. In the event that a permanent licence holder is unhappy with the decision of the Licensing Sub-Committee, an appeal may be lodged with the Magistrates Court within 21 days of the date of the decision of the Licensing Sub Committee. In the case of temporary licences, the legislation gives no right of appeal. Temporary licence holders may apply for a judicial review of decisions, though.

## **25.0 Duration of licences**

Permanent licences will last for one year. Temporary pitch licence holders may apply for permanent licences after 3 years of continuous trading within the Borough. Temporary licences are issued for six months, or less, if the Licensing Committee / Applicant specifies otherwise. A shop front or tables and chairs licence shall be a temporary licence, and a permanent licence may not be issued to a trader who applies for a shop front or tables and chairs licence. Market licences will be issued for a period in accordance with the application and / or any Licensing Sub-Committee decision made to alter the licence period.

## **26.0 Enforcement Action**

The decision to use enforcement action will be taken on a case by case basis and, to ensure consistency of approach, in accordance with this and any other more specific policies which may be applicable. The action taken, which may be immediate, will be proportionate to the seriousness and nature of the non-compliance.

Factors that will be taken into consideration include, but are not limited to:

- a) The risk that the non-compliance poses to the safety, health or economic welfare of the public at large or to individuals;
- b) Evidence suggests that there was pre-meditation in the commission of an alleged offence;
- c) The alleged offence involved a failure to comply in full or in part with the requirements of this policy and / or the terms of the street trading licence;
- d) There is a history of previous warnings or the commission of similar offences;
- e) Aggravated circumstances such as obstruction of an officer or aggressive behaviour towards the public;
- f) If the alleged offence, though not serious itself, is widespread in the area where it is committed;
- g) The gravity of an alleged offence, taken together with the seriousness of any actual or potential harm;
- h) There has been a repetition of a breach that was subject to a formal caution or issue of a Fixed Penalty Notice;
- i) False information has deliberately been supplied and/or intention to deceive.

The Council may take any of the following types of enforcement action (*in no particular order*):

- a) Verbal/written warnings – e.g. a contravention and / or where Officer contact has not resolved the contravention;
- b) Simple cautions;
- c) Licence review or application for licence revocation e.g. when fees go unpaid, a breach of a licence condition;
- d) Fixed Penalty Notices;
- e) Prosecution.

Any decision to prosecute will be taken as a last resort and such a decision will be made in accordance with the Code for Crown Prosecutors. Council enforcement services will carry out their enforcement-related work with due regard to the Enforcement Concordat. Information concerning non-compliance may be shared with other enforcement agencies. Any such action will only be undertaken in the public interest and in compliance with the Data Protection Act 1998.

Officers will regularly inspect street trading areas to ensure compliance with the licence terms and conditions i.e. the trader is only trading in the licensed pitch area. In addition, all complaints of unlicensed street trading will be investigated.

The Licensing Sub-Committee will hear all applications for the revocation, variation, or suspension of a street trading licence in the event that a trader significantly or persistently breaches such a licence.

Any trader who is convicted of an offence that is contrary to the Act or regulations made in pursuance of it may be requested to appear before the Licensing Committee or a Licensing Sub committee, when the determination of the recommendation to revoke the licence will be made. Any contravention of licence terms and conditions by an assistant to the licensee will be viewed as a contravention by the licensee whether present or not.

***Any breach of the conditions relating to market licences will be investigated, and enforcement action taken where necessary. Any history of enforcement action may be considered as part of the application process.***

## **27.0 Designation of Licence Streets**

If the Council considers that street trading should be allowed or licensed in any area, it may pass a resolution designating any further street or part of a street as a licence street under Section 24 of the Act. In deciding if a street or site should be designated for street trading, the following may be considered;

- a) The presence of any existing or planned street furniture;
- b) The proximity and nature of any road junctions and pedestrian crossing points;
- c) The number of street trading sites already licensed in the vicinity;
- d) Whether the proposed site for designation would impact on accessibility for members of the public i.e. pedestrians, pushchairs, wheelchairs etc.
- e) If the safety of the public will be put at increased risk;
- f) Whether the proposed site will leave the recommended clearance of 2 metres clear passage between the trading area and the edge of the kerb or footway;
- g) If there will be a negative impact on the character or appearance of the area.

For designation, there is a consultation period of 28 days, when the Council consults with the Police and Highways Authority, and any other relevant body. The Council may also pass a resolution to rescind or vary the designation of a licence street, and must consult on any intentions to do so in a notice published in a local paper. After publishing the consultation notice, the Council will consider any representations received, before making a decision.

A street does not have to be designated as a licence street for street trading purposes where a temporary street trading licence is issued. A list of current licence streets may be found in **Appendix 1**

## **28.0 Other legislative considerations**

Apart from the legislative requirements of the London Government Act 1990 (as amended) and the Food Act 1984, the Council will take into account its duties under other legislation including, but not limited to;

- a) Section 17 of the Crime & Disorder Act 1998, which places the Council under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent crime and/or disorder in the Borough.
- b) The Regulator's Compliance Code (set out in the Regulatory Reform Act 2006) which requires the Council not to impede economic progress by its regulations, and particularly to consider the impact on small businesses.
- c) The Provision of Services Regulations 2009 which requires the Council to ensure that its requirements are non-discriminatory; proportionate to the public interest; objective; clear and unambiguous; made public in advance; transparent and accessible.
- d) The Disability Discrimination Act 1995 which makes it unlawful to treat disabled persons less favourably than other people, for a reason related to their disability.

#### EU Services Directive

Tacit consent will apply to street trading licence applications if no objections are received and the applicant is not notified of the determination process within 28 days after receipt of a valid application.

#### **29.0 Policy review**

This Policy may be reviewed by Cabinet. Minor changes to this Policy may be made by the Deputy Chief Executive and Corporate Director of Planning, Environment and Education Services, acting in consultation with the Leader of Council.

#### **30.0 Commodities**

Applications for street trading licences must be made in accordance with the Council's approved list of commodities and banned commodities (Included as Appendix 2). The Licensing Service will consider commodities that are not on the approved list at its own discretion.

The Council may amend this list in order to ensure fair trading opportunities to all traders in the relevant area. The Council may, from time to time, ban certain commodities in certain areas where there is a need to do so. If the Authority amends the list of banned commodities, a 21 day consultation with traders will be held in the affected area prior to a decision being made.

#### **31.0 Ice Cream Traders**

Ice cream trading means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle.

Itinerant ice cream trading means ice cream trading from a vehicle which goes from place to place remaining in any one location in the course of trading for periods of 15 minutes or less and not returning to the same location or any other location in the same street on the same day.

The Council may, from time to time, ban ice cream traders in certain areas where there is a need to do so. The Council will carry out the statutory consultation and advertisement before any decision is made. A full list of areas where a ban on ice cream traders is currently in force can be found in **Appendix 3**.

#### **32.0 Licence Conditions**



The various licences in this policy are issued under the terms and conditions below. These are effectively the rules by which licensees must operate. They are meant to allow trading to be carried out safely, responsibly and in harmony with the surroundings, other traders and residents.

Full schedules of conditions relating to street trading and market licences can be found in the following appendices;

**Appendix 4** – Conditions applicable to all street trading and market licences

**Appendix 5** – Additional conditions applicable to tables & chairs licences

**Appendix 6** – Additional conditions applicable to shop front licences

**Appendix 7** – Additional conditions applicable to market *operators*

**Appendix 8** – *Additional conditions applicable to market traders*

### **33.0 Definitions**

The definitions used in the conditions and elsewhere are from the legislation that the Council is given to manage licensing in the borough. Some of the meanings may not be clear – licensing officers will try to answer any queries from residents, organisers or licence holders.

- a) “The Act” means Part III of the London Local Authorities Act 1990 as amended by the London Local Authorities Acts 1994, 1999, 2004 & 2007”;
- b) “Assistant” means a named person, or persons, under the direction of the licensee, who is in control of the trading activities when the licensee is not present. Details of this person(s) must be formally notified in writing to the Council;
- c) “Licensed Street Trader” means any person who is licensed for a street trading under Part III of the Act;
- d) “Licensed Street Trading Pitch” means an area in any authorised street or place at which street trading may be conducted in by a licensed street trader, and includes any temporary alternative place approved by the Council.
- e) “Market” means a concourse of buyers and sellers to trade commodities.
- f) “Premises” means any land, building or part of a building and includes any commercial premises adjacent to a licensed street trading pitch.
- g) “Shop Front Trading” refers to a licence which permits the display of shop goods on a street in a manner permitted by the Act.
- h) “Street trading” shall have the meaning described in Section 21 (1) of the Act.
- i) “Tables and Chairs Licence” refers to a licence authorising the placement of tables and chairs on a street.
- j) “Trader” means a person or that person’s assistant in whose name a current street trading licence is held, authorising street trading from a licensed street trading pitch. The street trading licence may be a permanent or temporary licence.

## Appendix 1

### SCHEDULE OF LICENCE STREETS

Pursuant to Section 24(10) of the London Local Authorities Act 1990 (as amended) the following streets are designated as "licence streets" for the purposes of street trading.

Bakers Road, Uxbridge Barra Hall Circus, Hayes Belmont Road, Uxbridge Betam Road Botwell Lane, Hayes Bourne Avenue, Gloucester Parade, Hayes Byron Way, West Drayton Cocks Yard, Uxbridge Coldharbour Lane, Hayes Coleridge Way, West Drayton Cowley Road 100-118, Uxbridge Cowley Road 18-20, Uxbridge Dawley Road 1-19, Hayes Dawley Road, Dawley Parade, Hayes East Lane, Hayes Eastcote High Road, Black Horse Parade, Eastcote Falling Lane, Yiewsley Field End Road, Eastcote Field End Road 702-724, South Ruislip Green Lane, Northwood Harlington Road 305-315, Hillingdon Harmondsworth Road, West Drayton Harlington Road 305-315, Hayes Harvil Road, Harefield Hayes By-Pass (The Parkway) Hercies Road, Hillingdon High Road 28-34, Cowley High Road 81-97, Ickenham High Road, Ickenham High Street, Cowley High Street, Dellfield Parade, Cowley High Street, Harefield High Street, Harlington High Street, The Parade, Cowley High Street, Uxbridge High Street, Uxbridge – <i>pedestrianised area between Vine Street and Belmont Road.</i> High Street, Ruislip High Street, Yiewsley High Street 110-118, Northwood	High Street 2-88, Northwood Hillingdon Hill, Hillingdon Horton Road, Yiewsley Howletts Lane, Ruislip Ickenham Road, Station Parade, West Ruislip Ickenham Road, Ruislip Joel Street, Northwood Hills Kingshill Avenue, Hayes Lansbury Drive, Hayes Laurel Lane, West Drayton Long Lane 1-12, Ickenham Long Lane 305-321, Hillingdon Long Lane 370-396, Hillingdon Long Lane, Crescent Parade, Hillingdon Long Drive, South Ruislip Manor Way, Ruislip Manor Maxwell Road, Northwood Moorfield Road, Cowley Moorhall Road, Harefield Mulberry Crescent, West Drayton North Hyde Road 141-171, Hayes Old Stockley Road Park Way, Ruislip Manor Park Lane, Harefield Pasadena Close Pembroke Road, Ruislip Manor Pield Heath Road, Cowley Pinner Road, Northwood Pinner Road, Northwood Hills Pump Lane, Hayes Pump Lane (Eastern end) Redmead Road, Hayes Rickmansworth Road, Harefield Romney Road, Romney Parade, Hayes Royal Lane, Yiewsley Ryefield Avenue, Hillingdon Salisbury Road, Eastcote Silverdale Road Sipson Road, West Drayton Skyport Drive Springfield Road Station Approach, South Ruislip Station Road, West Drayton
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## Appendix 1 (Cont)

<p>Station Road, Cowley  Station Road, Hayes (<i>NOT pedestrianised</i>)  Station Road Hayes, <i>pedestrianised area between Pump Lane and Crown Close</i>;  St Dunstons Road, Hayes  Sutton Court Road, Hillingdon  Swakeleys Road 1-31, Ickenham  Swallowfield Way  Swan Road 58-66 and 81, West Drayton  The Green 1-16, West Drayton  Victoria Road, South Ruislip  Victoria Road, Ruislip Manor  Victoria Road 439-445 and 490, South Ruislip  Violet Avenue 53-65, Yiewsley  West Drayton Road 177-183, Yiewsley  West End Road, Ruislip Gardens  Whitby Road 143-163 and 208-218, South Ruislip  Windmill Hill, Ruislip Manor  Uxbridge Road 1172-1380, Hayes End</p>	<p>Uxbridge Road 124-152, Hayes  Uxbridge Road 641-693, Hayes  Uxbridge Road 759-849, Hayes End  Uxbridge Road, Blenheim Parade, Hillingdon  Uxbridge Road, Byron Parade, Hillingdon  Uxbridge Road, Crescent Parade, Hillingdon  Uxbridge Road, Heathside Parade, Hillingdon  Uxbridge Road, Marlborough Parade, Hillingdon  Uxbridge Road, Westbourne Parade, Hillingdon  Uxbridge Road, Whiteleys Parade, Hillingdon  Vine Street, Uxbridge  Welbeck Avenue, Yeading  Willow Tree Lane, Hayes  Windsor Street, Uxbridge  Yeading Lane, Yeading</p>
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## Appendix 2

### Acceptable Commodities

Category	Commodity
Clothing	<ul style="list-style-type: none"><li>• Women's clothing</li><li>• Gents clothing</li><li>• Childrens clothing</li><li>• Baby wear</li><li>• Sportswear</li><li>• Clothing accessories i.e. hats scarves, ties, belts etc</li><li>• Underwear/Nightwear</li><li>• Footwear/slippers</li><li>• Other items (must be specified)</li></ul>
Flowers	<ul style="list-style-type: none"><li>• Cut flowers and plants</li><li>• Uncut flowers and plants</li><li>• Artificial flowers</li><li>• Flower accessories i.e. pots, food, hanging baskets etc.</li><li>• Seasonal i.e. Christmas Trees, Holly, Mistletoe etc</li><li>• Other items (must be specified)</li></ul>
Fruit & Vegetables	<ul style="list-style-type: none"><li>• Raw fruit/vegetables</li><li>• Other items (must be specified)</li></ul>
Food	<ul style="list-style-type: none"><li>• Pre-packed groceries</li><li>• Dried fruit, seeds, pulses, beans etc</li><li>• Cheese and dairy</li><li>• Meat/fish</li><li>• Bread/cakes</li><li>• Deli food i.e olives, pickles, nuts etc</li><li>• Confectionary</li><li>• Other items (must be specified)</li></ul>
Household goods	<ul style="list-style-type: none"><li>• Cleaning products</li><li>• Laundry products</li><li>• Cleaning utensils</li><li>• Plastic storage and accessories e.g. crates, boxes etc</li><li>• Light bulbs</li><li>• Other items (must be specified)</li></ul>
Toiletries & Cosmetics	<ul style="list-style-type: none"><li>• Toiletries</li><li>• Hair products</li><li>• Make-up</li><li>• Perfume</li><li>• Other items (must be specified)</li></ul>

## Appendix 2 (Cont)

Soft furnishings	<ul style="list-style-type: none"><li>• Cushions &amp; throws</li><li>• Bedding</li><li>• Curtains &amp; blinds</li><li>• Rugs &amp; mats</li><li>• Dining linen</li><li>• Other items (must be specified)</li></ul>
Kitchen/Dining	<ul style="list-style-type: none"><li>• Cookware</li><li>• Serve ware</li><li>• Glass ware</li><li>• Table ware</li><li>• Other items (must be specified)</li></ul>
Electrical & Audio/Visual	<ul style="list-style-type: none"><li>• Audio/amplification equipment</li><li>• Visual/display equipment</li><li>• Computer hardware and accessories</li><li>• Games consoles</li><li>• Musical Instruments</li><li>• Cameras</li><li>• Electrical accessories</li><li>• Other items (must be specified)</li></ul>
Travel Accessories	<ul style="list-style-type: none"><li>• Luggage</li><li>• Sports bags</li><li>• Handbags</li><li>• Other items (must be specified)</li></ul>
Jewellery and accessories	<ul style="list-style-type: none"><li>• Costume jewellery</li><li>• Precious jewellery</li><li>• Hair accessories</li><li>• Sunglasses</li><li>• Watches</li><li>• Other items (must be specified)</li></ul>
Stationery	<ul style="list-style-type: none"><li>• Office supplies</li><li>• Paper</li><li>• Greetings cards</li><li>• Wrapping supplies/giftbags</li><li>• Other items (must be specified)</li></ul>
Toys	<ul style="list-style-type: none"><li>• Childrens toys</li><li>• Outdoor games and toys</li><li>• Baby/nursery equipment</li><li>• Other items (must be specified)</li></ul>
Textiles	<ul style="list-style-type: none"><li>• Fabric</li><li>• Haberdashery</li><li>• Yarn/Wool</li><li>• Knitting/Sewing supplies</li><li>• Other items (must be specified)</li></ul>

## Appendix 2 (Cont)

Tools, DIY & Gardening	<ul style="list-style-type: none"> <li>• Tools</li> <li>• Garden tools</li> <li>• DIY supplies</li> <li>• Other items (must be specified)</li> </ul>
Furniture	<ul style="list-style-type: none"> <li>• Furniture including antiques</li> <li>• Other items (must be specified)</li> </ul>
Sports equipment	<ul style="list-style-type: none"> <li>• Exercise equipment</li> <li>• Track &amp; Field</li> <li>• Golf</li> <li>• Sports equipment</li> <li>• Other items (must be specified)</li> </ul>
Pet supplies	<ul style="list-style-type: none"> <li>• Pet food</li> <li>• Pet beds</li> <li>• Pet cages/hutches/tanks/carriers</li> <li>• Grooming and care supplies</li> <li>• Other items (must be specified)</li> </ul>
Arts & Crafts (original handmade goods)	<ul style="list-style-type: none"> <li>• Art</li> <li>• Sculpture</li> <li>• Craft items</li> <li>• Handmade textiles</li> <li>• Other items (must be specified)</li> </ul>
Miscellaneous	<ul style="list-style-type: none"> <li>• Other items not in any category above (must be specified by the applicant)</li> </ul>

## Banned Commodities

Commodity	Ward/Area of ban
Continuous or regular street trading of food (e.g. Mobile food traders)	Uxbridge Town Centre ( <i>as agreed by Cabinet 17<sup>th</sup> March 2011</i> )

### Appendix 3

Prohibition of mobile or “itinerant” ice cream trading.

1. Any street or part of streets or side streets within 65 metres of any exit used by children from the following premises:
  - (i) Primary schools
  - (ii) Under 5 centres
  - (iii) Day nurseries
  - (iv) Secondary schools
  - (v) Special schools
  
2. Any street or side street falling within the Uxbridge Town Centre. The Uxbridge Town Centre falls within the area bordered in bold black on the map below.
  
3. All streets, part of streets and side streets falling within major retail areas in
  - (i) Eastcote
  - (ii) Harefield
  - (iii) Harlington
  - (iv) Hayes
  - (v) Hillingdon Circus Area
  - (vi) Ickenham
  - (vii) Northwood
  - (viii) Northwood Hills
  - (ix) Ruislip
  - (x) Ruislip Manor
  - (xi) South Ruislip
  - (xii) Uxbridge
  - (xiii) Uxbridge Road Hayes
  - (xiv) Yiewsley and West Drayton

## Appendix 3 (Cont)





## **Appendix 4**

### **Terms and Conditions for all Street Trading Licences & Market Licences**

#### **1. FEES**

A fee is payable to the Council for consideration of the grant, renewal or variation of a licence. The prevailing fees can be found on the Council's website. Fees must be paid at the time of application for the application to be accepted as "duly made".

#### **2. SURRENDER OF LICENCES**

A licence shall cease to have effect when it is returned to the Council by the licence holder. A receipt shall be provided by the Council confirming this. All fees and charges are due, up to and including the day accepted as the day of surrender of the licence.

#### **3. TRADING LOCATION OR POSITION**

The trader shall trade only from the position indicated on the licence, unless otherwise directed by an authorised officer. The Council reserves the right to suspend any licensed street pitch/market place if the highway is obstructed or if health and safety concerns emerge. If this happens, another street trading pitch/market place may be allocated by the Licensing Service, if one is available.

#### **4. PITCH SIZE**

The licensed area must be within the dimensions shown on the licence, or any relevant pitch limits marked out on the ground by the Council. An awning may be permitted to extend 30 cm (12 inches) at the front of the pitch/market area, but no articles are to be suspended from the awning beyond the permitted pitch/market area.

#### **5. COMMODITIES / ITEMS TO BE TRADED OR SOLD**

Only those commodities or groups of specified on the licence may be sold from the licensed street trading pitch/market place.

#### **6. ADVERTISEMENTS**

No advertisement shall be displayed on the licensed pitch/market place for goods, commodities or services other than those licensed for sale or provided on that pitch/market place.

#### **7. DAYS AND TIMES OF TRADING OR BUSINESS**

Trading may only take place on the days and during the times specified on the licence. The Council shall advise traders/market operators of any extension of trading times for specified trading periods when and as relevant.

#### **8. TRADING ALONGSIDE PERMANENT BUSINESSES**

Licence times shall be the same as trading times applicable to shops in the vicinity of the licensed street trading pitch/market place. However, traders may trade only during the times stated on the licence.

#### **9. REFUSE OR WASTE**

It is the trader's/market operators responsibility to ensure that all litter and waste generated by their licensed activity is collected for recycling or disposal, in ways that are compliant with legislation. This can mean storage in suitable bins or containers within the licensed area until collection can take place by a registered carrier of waste.

To prevent blockages, odours or nuisance to others, road gullies or surface water drains may not be used for the disposal of food based liquid wastes or other noxious substances.

## 10. PORTABLE GENERATORS

Generators shall be positioned so that they do not present problems for other street users or traders. **Traders should not use petrol generators. NB. Diesel generators are permitted.**

## 11. STREET CLEANLINESS

The trader/market operator must keep the immediate licensed area, and the area within 5 metres in any direction from the licensed area, free of any wastes or spillages resulting from the trading activity, throughout the trading day. When trading is finished or upon leaving the site, the trader/market operator must leave it in a clean condition.

## 12. DISPLAY OF LICENCE

The licence must be shown at all times, in a prominent position, so that it can be easily read.

## 13. SAFETY OF EQUIPMENT

Electrical equipment must be approved by the Council before being used on a trading pitch. Regular **safety** testing may be required. All other equipment must be regularly inspected, in a good condition and safe to operate. The use of gas cylinders is permitted only where traders have checked the valves and hoses for defects before use, and bringing them into the licensed pitch or market place. Cylinders must be sound, and free from external damage.

## 14. USING A MAINS VOLTAGE ELECTRICAL SUPPLY

Traders/market operators using a mains electrical supply must have consent from the Council before seeking installation from an electricity supplier. Where relevant, the trader/market operator and the electricity supplier will be required to provide the Council with certification for the safety of the electricity supply.

## 15. INTERFERENCE WITH ELECTRICAL SUPPLIES

A trader/market operator will be subject to suspension of a licence if they tamper with, or use an electricity supply belonging to the Council without a prior arrangement to do so. A trader/market operator causing damage to any Council installation or equipment will be required to pay the full cost of any repair or replacement.

## 16. PITCH EQUIPMENT, OR TRADING STALLS

Pitch equipment or stalls should be easily and quickly assembled and removed. The Council reserves the right to inspect for stability and safety and to ensure that they are fit for purpose. Any obviously dangerous item must be made safe or immediately removed on request. It is the trader's/market operators responsibility to ensure that items and structures are put up and taken down safely, are properly designed, well sited (**e.g. so as not to block access to fire hydrants, entrances, or cause other nuisance etc**) of appropriate appearance in respect **of location** and in a good, clean, condition.

## 17. GENERAL CONDUCT

Any trader/market stall holder and/or any assistants employed by them shall conduct themselves in a decent manner and ensure that all members of the community are fairly treated and shown courtesy and respect. Trading activities should not give rise to noise inappropriate to the area, or cause other nuisances.

## 18. PRODUCTION OF LICENCES ON REQUEST

All licensed traders shall produce their licence when requested to do so by an authorised officer **of** the Council, or a police officer.

#### 19. NOTIFICATION OF LOCATION FOR STORAGE OF FOOD COMMODITIES, PITCH EQUIPMENT, OR TRADING STALLS etc.

Traders in foodstuffs must notify the Council in writing of any change of address or addresses at which the pitch equipment stalls etc (the “receptacles”) and any commodities are stored. Such notice must be given within 7 days of the change. Checks may be made to confirm details and suitability.

#### 20. EMPLOYED ASSISTANTS

Traders shall notify the Council in writing of the name, address of every assistant who may be given responsibility for the pitch in the absence of the trader. Details of any subsequent change of assistant or any other relevant information regarding assistants should be given in writing to the Council.

#### 21. EMPLOYMENT OF CHILDREN

A licensed trader shall not employ any person under the age of 17 years in any capacity in the course of his trade or business.

#### 22. ASSISTANCE TO COUNCIL OFFICERS

A trader shall give immediate assistance to Council officers when requested to do so. In dealing with an emergency, this might mean moving a stall or equipment away from the area, quickly.

#### 23. CHANGE OF ADDRESS AND CIRCUMSTANCES

A trader shall give notice in writing to the Council of the change of any of the addresses and circumstances. Unless a trader is unable to do so for good reason, notice of a change of address should be given within seven days of any change. Proof of new address will need to be submitted to the Council.

#### 24. FOOD RELATED TRADING

Food traders shall comply with the necessary food hygiene, food hygiene training and food registration requirements as required by the Councils Food, Health & Safety Team.

## **Appendix 5**

### **Conditions Specific to Tables & Chairs Licences**

In addition to the conditions relating to all street trading and market licences, these conditions apply specifically to “Tables and Chairs” licences.

1. The grant of a tables and chairs trading licence does not give any approval or consent which may be needed under any other legislation other than under the Act(s).
2. A copy of the tables and chairs licence must be displayed in the window of the licensed premises. The copy licence is to be displayed so as to be clearly visible and legible from the street.
3. Only those commodities sold in the relevant shop premises can be served under the tables and chairs licence.
4. Only those services provided within the relevant shop premises can be provided in the licensed area where a licence permits tables and chairs to be placed on the street.
5. A tables and chairs licence is not transferable.

## Appendix 6

### Conditions Specific To Shop Front Licences

In addition to the conditions relating to all street trading and market licences, these conditions apply specifically to “Shop Front” licences only

1. Any display or part of a display of goods or services sold or offered within a shop and that is located on a public forecourt adjacent to the shop shall require a shop front licence, if the display is placed within 7 metres of the boundary at the rear of the footway delineating between the private property and the public Highway, as may be evidenced by deeds of the property and / or the highway register.
2. A copy of the shop front trading licence must be displayed in the window of the premises outside which trading is permitted. The copy licence is to be displayed so as to be clearly visible and legible from the street.
3. Food Traders shall comply with the necessary food hygiene and food registration requirements as required by the Council's Food, Health & Safety Team.
4. Monetary exchange or payment cannot be made in the licensed street trading pitch.
5. The dimensions of a licensed street trading pitch shall be such that a minimum of 2m clear of any obstruction shall be maintained on the Public Highway for the safe pass, re-pass and free flow of pedestrian and vehicular traffic.
6. No equipment, stall, container, or display or tables(s) or chair(s) shall at any time be permitted to obstruct an entrance or exit to any adjacent premises or to any part of the building to which the licence applies that is under separate occupation.
7. Temporary barriers of an approved type must be in place during licensed hours and the same must be removed outside of the hours permitted by the licence
8. A shop front trading licence is not transferable.
9. Only those commodities sold in shop premises can be displayed outside premises provided they are not excluded items as defined in these regulations.
10. A separate street trading licence shall be required in the event that a commodity that is not sold in the shop is displayed or offered for sale on the licensed street trading pitch.
11. Only that equipment, stall, container, or display or tables(s) or chair(s) and containers which is suitable and fit for purpose and approved by the Council shall be used by the licence holder and assistants for shop front trading or ancillary to shop front trading.
12. The following items may not form part of the commodities displayed under a shop front licence:
  - a. Alcoholic beverages, tobacco and tobacco products;
  - b. Lottery tickets, phone cards, raffles, tombola and/or other games of chance;
  - c. Medicines, drugs and other prescribed substances
  - d. Uncooked meat or fish
  - e. New and used cars and motorcycles

- f. Pets and livestock
- g. Containers of Liquid Petroleum Gas (LPG) **or other flammable liquids** including any which are fully or partly discharged or emptied;
- h. Explosives, including fireworks;
- i. Goods considered by the Council to pose a Health and Safety risk to the public.

13. The dimensions of a licensed street trading pitch shall be such that a minimum of 2m clear of any obstruction shall be maintained on the public highway for the safe pass, re-pass and free flow of pedestrian and vehicular traffic.

14. Items that are likely to cause damage **to** the street or street furniture may not be used.

15. An awning may be permitted to extend up to a maximum of 30 cm (12 inches) at the front of the licensed shop front pitch, but no articles are to be suspended from the awning beyond the permitted area. Additionally, the placement of the awning must permit safe pass and re-pass by pedestrian traffic.

## Appendix 7

### Standard licence conditions for market operators

In addition to the conditions relating to all street trading and market licences, these conditions apply specifically to “market operator” licences only.

***The licensed market operator must ensure that the following conditions are adhered to;***

- 1) No person shall sell goods in a market place other than during market hours;***
- 2) No person shall bring a vehicle into the market place during market hours unless in case of emergency;
- 3) No stall shall cover or obstruct a fire hydrant. Clear access must be maintained at all times.***
- 4) No person in charge of a vehicle shall, during market hours, **allow it to stop** in the market place, or in its immediate approaches, for longer than is reasonably necessary for the loading or unloading of goods;

~~No person shall bring any goods into the market place more than one hour before the market hours begin or allow them to remain there more than one hour after the market hours end;~~

- 5) No person shall place any goods on, or occupy any stall or pitch without the permission of the licensed market operator;***
- 6) No person shall light a fire in the market place;
- 7) No person shall keep or sell any explosive or highly flammable substance in the market place;
- 8) No person shall bring a petrol generator into the market place. NB. Diesel generators are permitted.***
- 9) No person shall post or display any bill, placard or poster, other than a description of goods advertised for sale, in any part of the market place, except with the prior permission of the market authority;
- 10) No person in the market place or in its immediate approaches shall, except by way of sale, distribute or attempt to distribute to the public any printed matter unless prior consent has been obtained from the market authority;
- 11) No person shall bring into or allow to remain in the market place any animal;
- 12) Food traders shall comply with the necessary food hygiene and food registration requirements as required by the Council’s Food and Health & Safety Team.
- 13) The market operator shall ensure that each trader is able to demonstrate adequate public liability insurance cover of £2million minimum.***



## **Appendix 8**

### **Standard licence conditions for market traders**

***In addition to the conditions for all street trading and market licences, these conditions apply specifically to “market” licences only.***

- 1) Every market trader shall;***
  - a. Ensure that the stall / pitch is properly cleansed before and after market hours and as often as may be necessary during those hours;***
  - b. Ensure that all refuse accumulated in connection with the stall is placed in a suitable bin or container;***
  - c. As often as is necessary, ensure that the contents of the bin or container are removed to a designated storage point, before removal for final disposal.***
- 2) Traders shall have in place the following documentation at the time of trading and must produce them if requested to do so by an Authorised Officer of the Council;***
  - a. Food hygiene documentation. (where the trader's commodity is food)***
  - b. Valid public liability insurance of £2million minimum.***
- 3) Traders shall not bring petrol generators, or containers of petrol into the market place. NB. Diesel generators are permitted.***

## Appendix B

### Summary of consultation responses

<u>Consultee</u>	Summary of comments applying to the consultation	Proposed responses to comments
<p><b>Mr Philippe Bassett</b> Savoir Fayre Ltd Continental Markets Operator.</p>	<ul style="list-style-type: none"> <li>Proposes some suggestions for market licence fees.</li> </ul>	<ul style="list-style-type: none"> <li>Proposals taken into account and included in body of the Cabinet report under 'Fees'</li> </ul>
	<ul style="list-style-type: none"> <li>Concerns about licences with rigid terms in respect of trading hours and size/location/commodities of market etc. e.g. where the location or times of the market need to be adjusted at the last moment.</li> </ul>	<ul style="list-style-type: none"> <li>Controls are needed but specific licence conditions will manage the time / place / commodities of markets, and may be applied to each different market licence.</li> </ul>
	<ul style="list-style-type: none"> <li>Concern about unworkable conditions in Appendix 7 of the draft policy relating to set up of markets. Also promotes some additional conditions for market operators.</li> </ul>	<ul style="list-style-type: none"> <li>Adjustments and additions made to draft policy - Appendix 7 – Conditions for Market Operators and restrictions on set up and break down have been reduced.</li> </ul>
	<ul style="list-style-type: none"> <li>Promotes tighter conditions for individual market traders to be included in the draft policy.</li> </ul>	<ul style="list-style-type: none"> <li>Addition of Appendix 8 to the draft policy – Conditions for Market Traders.</li> </ul>
	<ul style="list-style-type: none"> <li>Questions the ban on the sale of food in Uxbridge Town Centre and states that there should be an exclusion for markets.</li> </ul>	<ul style="list-style-type: none"> <li>The ban contained in the draft policy - Appendix 2, relates to the continuous or regular sale of food only, and does therefore not cover occasional street markets.</li> </ul>
<p><b>Mr Glyn Craddock</b> Uxbridge Station Flowers Permanent Street Trader.</p>	<ul style="list-style-type: none"> <li>Agrees that proposals for markets would be a more viable and sensible option than the current system in place.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> </ul>
	<ul style="list-style-type: none"> <li>Has concerns about the quality and appearance of markets in Uxbridge Town Centre, and would encourage tighter scrutiny and enforcement by the Council.</li> </ul>	<ul style="list-style-type: none"> <li>Addition of paragraph in draft policy S.17 which sets out the expectations of the Council in respect of prospective market operators.</li> <li>Clause 16 in the general terms and conditions changed to address the need for an appropriate and good quality appearance of stalls.</li> <li>Amendments made to S.26 of the draft policy to include a more robust enforcement policy for markets.</li> </ul>

	<ul style="list-style-type: none"> <li>Concerns about the business impact of street markets on local traders, particularly during festive periods.</li> </ul>	<ul style="list-style-type: none"> <li>S.19 of the draft policy makes reference to proposals for consulting with local stakeholders, and S.20 refers to objections which may be submitted against market applications.</li> </ul>
	<ul style="list-style-type: none"> <li>Concern about S.16 (approval in principle), not allowing enough time for objections as it is proposed to allow full details of traders and their commodities to be submitted up to two weeks prior to the event.</li> </ul>	<ul style="list-style-type: none"> <li>The application form for markets will have a section for the operator to give outline details of the proposed commodities selected from the list contained within the draft policy. Though not final, these will still form part of the consultation process as per S.19.</li> </ul>
<b>Mr Les Drussell</b> Ruislip Manor Chamber of Commerce and organiser of the Ruislip Manor Fun Day.	<ul style="list-style-type: none"> <li>Agrees overall with the document and says that the whole process will be easier and helpful.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> </ul>
	<ul style="list-style-type: none"> <li>A single licence for markets is welcomed.</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> </ul>
	<ul style="list-style-type: none"> <li>S.15 of the draft policy should be altered so that applicants must have approval in principle from the Highways Authority for a road closure rather than full approval.</li> </ul>	<ul style="list-style-type: none"> <li>Noted and amendments made to S.15. Also the addition to S.16 which states that approvals in principle will only be issued subject to other necessary permissions being obtained.</li> </ul>
<b>Mr Ian Parkinson</b> Eastcote Residents Association, and organiser of the Eastcote Christmas Festival.	<ul style="list-style-type: none"> <li>Proposes a common localism, pride and community strategy policy to enable community events.</li> </ul>	<ul style="list-style-type: none"> <li>This proposal falls outside the remit of a policy for the regulation of street trading and market activities.</li> </ul>
	<ul style="list-style-type: none"> <li>Proposes the addition of a definition of 'community event' and the development of a "community test" to assess an event to decide whether it is community or commercial, and if a waiver of fees is appropriate.</li> </ul>	<ul style="list-style-type: none"> <li>Each application for a market for the purposes of a community event will be assessed on a case by case basis. S.15 of the draft policy addresses this proposal.</li> </ul>
	<ul style="list-style-type: none"> <li>Proposes a policy for granting certainty of event.</li> </ul>	<ul style="list-style-type: none"> <li>S.16 of the policy introduces the process of giving an 'approval in principle'.</li> </ul>
	<ul style="list-style-type: none"> <li>S.15 of the draft policy should be altered so that applicants must have approval in principle from the Highways Authority for a road closure rather than full approval.</li> </ul>	<ul style="list-style-type: none"> <li>Noted and S.15 amended. Also the addition to S.16 which states that approvals in principle will be issued subject to other necessary permissions being sought.</li> </ul>
	<ul style="list-style-type: none"> <li>Concerns that the Council is over exercising its rights to control individual traders at community events and feels that this should be a matter for the event organiser.</li> </ul>	<ul style="list-style-type: none"> <li>The draft policy does not seek to control individual traders at events but there is a duty to regulate activities to protect the public. Licences will be issued with sensible conditions to reflect this need.</li> </ul>

	<ul style="list-style-type: none"> <li>Proposes that the Council gives special treatment to community events in allowing a light touch process to event organisers.</li> </ul>	<ul style="list-style-type: none"> <li>Regulating market activity under the Food Act 1984 will be an easier process as it will involve a single licence for a market, as opposed to licences for each individual trader, as was the case under the previous system.</li> </ul>
	<ul style="list-style-type: none"> <li>Highlights the potential strain on event organisers in complying with the various licence conditions in the draft policy.</li> </ul>	<ul style="list-style-type: none"> <li>Conditions will be sensibly applied to address the obligations of the licence holder e.g. public safety, responsibilities of traders etc.</li> </ul>
	<ul style="list-style-type: none"> <li>Proposes some ideas for market licence fees.</li> </ul>	<ul style="list-style-type: none"> <li>Considered whilst drafting of section on fees in the Cabinet report.</li> </ul>
	<ul style="list-style-type: none"> <li>Would like a paragraph included within the draft policy to state that Community/Charity events will always be entitled to a waiver or reduction of licence fees.</li> </ul>	<ul style="list-style-type: none"> <li>Adjustments now made to S.18 in the draft policy.</li> </ul>
	<ul style="list-style-type: none"> <li>Queries whether the Council can introduce a single licence to regulate all regulatory activities including; alcohol and entertainment; road closures; markets; festive lights; advertising banners etc.</li> </ul>	<ul style="list-style-type: none"> <li>This is not possible given the multiple systems of legislation.</li> </ul>
	<ul style="list-style-type: none"> <li>Requests if the Council would suspend permanent street trading licences if they are in the same location as a temporary market to create more space for a community event.</li> </ul>	<ul style="list-style-type: none"> <li>This is not possible, as permanent street trading licences take precedence over a temporary market licence. It is necessary to ensure that there is always 2 metres clear passage on any public highway. The Council will assess the proposed market space to ensure that there is always the required clear passage.</li> </ul>
	<ul style="list-style-type: none"> <li>Comments generally on the Council's procedures for the installation of festive lights.</li> </ul>	<ul style="list-style-type: none"> <li>This is not a matter for a Street Trading and Markets Licensing Policy.</li> </ul>
<p><b>Martin Green</b> Team Leader, Hillingdon, Hounslow, Harrow Fire Safety Team - LFEPA.</p>	<ul style="list-style-type: none"> <li>Proposes some conditions relating to the set up of pitches over fire hydrants, closeness of markets to buildings, temporary structures, use of gas cylinders, use of generators and access for fire brigade vehicles.</li> </ul>	<ul style="list-style-type: none"> <li>Now provided within the draft policy - Appendix 7 – Conditions for market operators, Appendix 8 – Conditions for market traders (including fire safety matters) and in changes to street trading general terms and conditions in the draft policy.</li> </ul>

## Appendix C

### Consultation responses

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#### Stephanie Waterford - RE: Draft Street Trading & Markets Licensing Policy

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**From:** <martin.green@london-fire.gov.uk>  
**To:** <SWaterford@Hillingdon.Gov.UK>  
**Date:** 26 June 2011 11:38  
**Subject:** RE: Draft Street Trading & Markets Licensing Policy

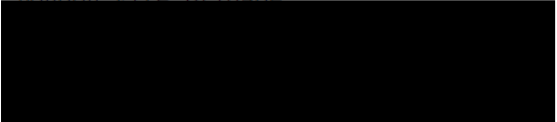
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Hi Stephanie

Can you have added in the following issues should be considered:-

Not setting 'pitches' over street fire hydrants (PROTECTION OF WATER SUPPLIES)  
How close to buildings and other temporary structures (PROVENTION OF FIRE SPREAD)  
Use of cylindered gas (GAS CYLINDER SAFETY)  
Use of petrol or diesel generators ( PREFERENCE FOR DEISEL GENERATORS)  
Access must be kept for fire appliances (FIRE BRIAGDE ACCESS)

Martin Green  
Team Leader  
Hillingdon-Hounslow-Harrow  
Fire Safety  
London Fire Brigade





# SAVOIR FAYRE Ltd

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Company Registration Number 07085450

Dear Stephanie and David.

Thank you for inviting me during the consultation process. Sorry for the delay, in submitting my suggestions in writing I have tried to be thorough and I hope that you will have the patience to go through a technical document written in pigeon English.

## Introduction:

In general it is important to understand the sense of the law, when a street license is granted on public highway **NO ONE SHOULD MAKE A PROFIT FROM THE SIMPLE USAGE OF A PUBLIC HIGHWAY EITHER UNDER THE LLAA OR THE FOOD ACT.** Other public properties, parks, council forecourt, playgrounds, sporting venues, can be rented out like for recognised markets they are outside the scope of the LLAA . This maybe difficult to apprehend sometime in modern economy when anything as to be income related but it is what it is.

However it is possible for a council to make indirectly profit from street trading: not by renting the public highway, but by selling a space where a commercial interest has been created, (ie a market, an association of stall that has been organised and managed and promoted by a body ). Unlike a individual street trading license that is just a granted right to operate a business on Highway and only operating with the natural footfall. (advertising of market that is just an association of stall operating under the London act is prohibited) and as ridiculous as it may seems it is also forbidden to advertise for free space or free pitches because they do not suppose to generate an income.

This is an important point to understand as any regulations should in accord with the sense of the law. When a commercial interest is created, (under the food act) the profit may be shared between the different parties involved. The parties may be: the creator/promoter (council or private), the operator (council or private) and the facilitator (generally the council).

The value of a location while not truly recognised can be then simply measured form offers and demands, but legally it's never the location that is evaluated and sold but a share of the commercial interested created. Even if in reality the success of the commercial interested is often linked to its Location. Creating or facilitating the creation of a commercial interest (a market, a festival, etc) is probably the only way for a council to legally generate income from street trading.

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## Using the food act

If you are using the food act you should use it to its full potential.

There is two stages to implement the food act:

### **A) The definition, rules regulations and restrictions applying to each Proposed Market locations.**

It is important to differ the operator license from the location restriction, it is my experience that no license will be able to cover each specific locations requirement. So a simple clause of the license should be that the operators has to conform to each locations specific requirement. It is also important to realise that unlike street trading designated areas, market areas are limited to few locations. This doesn't necessarily means that new locations wouldn't be considered, but it can means that planning, consultation and health and safety survey can be carried out by the applicant (creator) and at his cost. This can be the council or a private operator (as Savoir Fayre did for Uxbridge town centre.) This "technique" allows each location to have it's own specific requirement without having to change the terms of the licenses. The principle is the same as for an alcohol license, a license is issued to a person who in turn will have to operate within the regulation attached to the promises he is operating.

Note that when a contract as been issued to private operator, the location restrictions may required to change time to time. It is important that nay contract passed with a private operator allow for these changes to happen, even if these changes affect the terms of the contract. (changes in trading hours or trading days, commodity allowed etc.. may challenge the financial terms of the contract). It is better to change the terms of the contract than not been able to change the location restrictions if require. (you will have to submit this to your legal dpt)

For example in appendix 7 item 4 it is mentioned that no person should bring any good before the market starts.... this is unnecessary and confusing, what do you mean by market start? The opening hours of the market or the set up time of the market? Some stall takes 2 to 3 hours to setup. To express the restriction required for each location you only need to mention the setup time, the operating time and the time when the location has to be cleared from any market activity. For example in the same borough (barnet) we normally set up at 6am, but in one specific location we only can set up at 7 am (this is a very residential location were early morning noises are a problem to local resident) so this is reflected in the location operating restriction and in our management plan.

A market as to fit with the local community as much as it possibly can. The normal procedure for each location is to have a public consultation but it is good practice also to have a probative period. Particularly for long terms market that are newly implemented. Any objection or concerns during that period should be considered and addressed by the operator when possible.

For example much as the public may enjoy the smell of cooking garlic, they may be reluctant to buy a new outfit impregnated with garlic smell. So one of the restriction to implement may be not to allow cooking food stall within a certain area. If the public or locals business have never experienced a market activity near by they promises they may not object at the time of the consultation and only notice the problem once the market is in operation. This is why a probation period is a good idea. I

## **B) The policy, terms and conditions, for each type of licenses**

Under the food act, there is no street trading licenses, some time **market traders license is issued** by the operator some time just a pitch hire agreement is issued. What ever you choose to do it is a safe practice to distinct the Market traders license from the pitch hire agreement. If issued The market traders license is granted to the traders in recognition for him to be "fit" to trade in his commodities within the borough. The pitch hire agreement is issued by the operator (council or private) for use of the pitch the advantage this configuration are:

-If a trader has his license removed for breach of the terms and condition of his license he isn't necessarily free from the terms of the pitch hire agreement.

-A traders may be removed from a market for breach of the terms and condition of the market but still be able trade on other location where his license may permit him to do so. (if a traders hasn't paid his rent for example he may be suspended to trade on a particular location without a court judgement been necessary, and still been able to make a living elsewhere (his license hasn't been removed). Under the LLAA a trader that hasn't paid his rent will have to be taken to court to have his license removed, and still be able to trade during the appeal without paying the rent this isn't the case under the food act. There is cases where a trader want up to the European Court against the council to finally loose. In the mean time the trader was able to trade during all the appeal proceedings, in the end the council could never recover the cost of the pitch and the cost of the law suit after the trader was declared bankrupt!!!

The usual best practice for markets owned by the council but operated by someone else is to issue an operator's license, this license should be annual and for every potential market location in the borough. The license only means that the holder is fit to operate markets within the area stipulated on his license as long as he is the owner of the land or he has the land owner permission to operate on this land at the mentioned dates. (in Scotland, this license also issued for market operated on private land.)

In that effect individual market traders licenses aren't longer require to be produced by the council for this particular market. but the operator has as part of his license, the responsibilities to insure that any trader not already in a possession of a valid individual trading license recognised by the council, is "fit" to trade in accordance with the council regulation this means: the trader has supply all the necessary documentation required and for the traders to respects the terms and condition of an individual license.

**Streets trading licenses should not be issued on market operated under the food act. If a street traders license is issued to a trader the LLAA applies. This will make it impossible for the council or the operator to remove a trader's license without a court judgment, (except temporary removal of stock form trading standard, or closure for Food Safety reason.)**

So it is very important to think through the terms and conditions of the operator's license and to spelt-out these terms clearly. I have included below the points that are important.

Savoir Faysr Ltd, 78 Dene Road, Northwood, Middlesex, HA62DF



- For the operator to keep a date by date list of all attending traders and for each traders all the individual documentations required by the council (same documentation as stated in the individual licenses application) should be made available at any time during working hours on the express demand of the relevant council officers. Failure to do so may be subject to sanctions including a predefined financial penalty, immediate closure of the stall that can't produce the required documentation, closure of the market, removal of the operators license,ect.
- To keep every attending traders documentation on record for at least five years.
- To enforce traders terms and conditions reflecting the council policy. *(it is important that In these terms and condition a clause mention that a trader may have to accept to move locations at any time if safety issue or reasonable circumstances are requiring him to do so.)*
- To produce method statement management plan, generic risk assessment, market operator public liability insurance, event layout, etc..
- To comply with all the restriction specific each individual location, including: set up time, trading dates, trading hours, vehicle access, trader car parking, rubbish collection, specifics shop keeper or resident recorded requirement(s), noise management, staffing policy, security issues, emergency measure, public facilities, anything a location may requires.
- To accept only stalls that fit the theme of the market/event when it apply
- To conduct a site health and safety survey for each market prior opening to the public.

Certificate to be recorded and provided.

- Gas safe certificate for all appliances using LPG on the market.
- Soft structure provided by the operator must have a fire retardant certificate
- Pat testing certificate for every electric appliances used on site
- Hygiene certificat for every stall selling high risk food.
- Generator and plant insurances when apply

What is important to understand that the sense of the law is to insure public safety on any market regardless if the market is operated on private and/or public land, by the local authority or by any other organisation.

### Uxbridge food stalls restriction.

You should clarify that this restriction doesn't apply for speciality events. If there is restriction they should be spelt out separately, by totally banning such commodity you will restrict yourself in having such event as food and drink festival.

Also the banned commodity mention food, if the conversation we had is correct it should only be addressed to

### Fee structure for the markets

A fee for a operator license is generally nominal and just cover the cost of issuing the license. but as describe previously the council may charge an operator for having facilitated the creation of a commercial interest. This charge is separate to the license fee and depend of the commercial value of the market/event.

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There is two case scenario:

1) a location is to be operated by a private operator all year long and at predefinit dates (permanent market) the operation of the market is generally submitted to tender. the term of the tender can varies greatly from a % of the gross income to a flat fee for operating the market. There is no real rules as local authorities may apply different fee structure.

2) a location is rented to a private operator for a determined period of time, generally the rent is a flat fee for several reasons including:

- there is a minimum cost that can't be recovered by the council if the market is too small, for example: under the food act the council can't recover charges for street closure, parking bay suspension etc.. the use of the land is the market right.
- the return isn't dependant to the operator success or failure which will be unpractical.
- if an event became very successful the council may want to put it to tender, in that case the operator will generally only offer a flat fee.

Charging per stall or per trader doesn't reflect the industry needs, most operators are charging per meter, so the operator will prioritise large stall over small ones.

Interestingly craft stall are generally small, and also are often charged less by the operator to reflect they commercial handicap.

To charge per pitch will required to have predetermined pitch for each locations which isn't convenient and costly. (the industry is currently moving away form this procedure).

So we are left with the option to charge a flat fee per location or a fee per meter of stalls. Some council have taken an intermediate approach charging a fee for market under 100m another for markets up to 200 meter and another for larger market depending on the location natural space and requirement.

Charging per meter is normaly applied by the operator himself to the traders, but unless an operator is appointed to managed a large and established market where contract and tender agreement are complicated with profit share structure etc, the operator is normaly charged a fix fee.

The raisons:

charging per meter will creates a great amount of administrative works, every day the exact total pitch length will have to be accounted for, (a traders takes liberty and extend slightly is pitch area, an other has booked but didn't come, another hasn't paid,) it is not only difficult to quantify and managed but also subject to litigations and ask a greater involvement form the council.

The best practice will be to start with an agreed price, and depending on the success of the operation to submit it to tender.

Below you may find rate applied in other locations, (other than stated the prices are generally for market of about 150 to 180 meters of market pitches only). Annually, the cost of the land usage should not exceed 33% of the total gross income. Advertising and direct operational cost another 33% and the last 33% should be for administrative costs, participation to head office cost and profit.

For permanent market and long events, the marketing cost and administrative costs can be reduced dramatically, in that case operator will often be in position to increase they budget and offer for the usage of the land.

Savoir Faysr Ltd, 78 Dene Road, Northwood, Middlesex, HA62DF

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- Big established event: they are generally submitted to tender. the offer depend on size, length of the event, popularity, and reputation. (when an event or a market is well establish the tenders can reach 1000s a day, it is often dreaded by the operator that started the event when this is the case, the next operator will take total advantage of the work produced by his predecessor, but such is life).
  - Edimburg princess street will be about £1000 per day for a 200m market and 750 for up to 120 meters market per day.
  - prime location in large city £ 500 to 750 per day
  - London borough £ 300 to £500 per day
  - small town and villages about £250 per day
  - Regeneration needed area; £300 to £0 per day (it also may includes lot of free services, rubbish collection, advertising, etc).

There is very little budget in local government to provide entertainment and excitement to they town centres, as market and so called commercial events are self financed and can even generate income it is important to have an attractive and efficient policy, if not no one will be interested. High Streets will get emptier, shop will close and then it's too late.

Even if you do not take consideration of what I have explain in the above, I thank you for having giving me the opportunity to express my views, my advices are genuine and I hope that you find them helpful..

I also have also included a copy of our traders terms and conditions and our generic risk assessment for your perusal.

regards

philippe

## Stephanie Waterford - RE: Street Trading Policy

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**From:** [REDACTED] >  
**To:** <swaterford@hillingdon.gov.uk>  
**Date:** 04 July 2011 11:03  
**Subject:** RE: Street Trading Policy

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Dear Stephanie

Thank you for inviting me along to the recent meeting to discuss the new policy for street trading and possible future market events. After hearing the new system proposed to alleviate the amount of work, cost and time involved in passing a decision on an upcoming event, I wholeheartedly agree that this would be a much more viable and sensible option. The new system proposed, in my opinion, mirrors the original policy in place before the current policy today, but with certain conditions for market stalls.

My main concern however is with the licenses given to temporary stalls along the Uxbridge High Street. The last continental market, in theory, should have been a great success, yet in practice was a monumental failure due to a category of negative points. Such as a failure to make the whole appearance of the market aesthetically pleasing, the goods available for purchase themselves being of poor quality at extortionate rates, the clear fact that a huge amount of goods sold were available from permanent businesses within the town centre, an obvious abuse of terms and conditions of their licenses with a lack of council enforcement and many more reasons I could add to an unacceptably long list.

On section 14.00 of your letter, you say that a market's aim is to enhance shopping areas and offer variety. This was certainly not the case. If a high quality, genuine French, German, Italian market was introduced to the town on a temporary basis, I could fully understand the potential to increase trade and overall town popularity but these shabby excuses for European markets do not portray a positive view of fresh trade in Uxbridge by any stretch of the imagination. Even though a survey undertaken may say otherwise, which may be for the simple reason that asking only members of the public who have bought an item is a completely biased opinion.

I sincerely hope that the council will take into account the local retailers' concerns about these markets and understand why, after working through an incredibly tough economic downturn, they truly feel let down and subdued by decisions to allow these markets to trade during the Christmas period where there's a chance to make up for losses over previous months. These markets' sole invested interest is for their own monetary gains with no concern for the town itself. If this weren't the case, then they would be here for the tough months when trade is slow and the town could do with such an event. The town is swamped with shoppers during December, with brimming car parks and packed trains, so why would we need more people to add to the congestion at such an already busy time? The decision to limit the continental market to two days instead of four was very well received by all Uxbridge businesses who felt that to allow a lengthy period of time to outside competition would surely be detrimental to their business.

A question that sticks in my mind is why do these markets have the special privilege of not having to declare what their commodities are until two weeks before the event? I have been trading in Uxbridge for twenty years and still have to get my license application in place, three months before its due. Surely this two-week period does not allow time for any objections.

I appreciate your time in receiving my concerns and hope you will consider all the points I have raised in this letter when making decisions for any proposed upcoming events.

Kind regards  
Glyn Craddock-Uxbridge Station Flower

Stall

# Response to consultation on Street Trading & Markets

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## On Behalf of: The Eastcote Festival Team

The responses, observations and suggestions are given from our perspective as Community Event organisers and are based on our experiences of organising Community & charitable events both inside and outside of the Borough and also upon our dialogue with other Community organisers and groups.

Whilst the Council is to be applauded for its desire to encourage, support and simplify the process for communities to organise Community Events we believe the policy as drafted does not achieve this objective. We therefore make the following recommendations for the draft policy to be amended.

Incorporating the following:

1. **A Common Strategic Policy:** A Common Strategic Policy from the Council to support and enable Community Events- Localism.
2. **Define a Community Event:** To clearly define a Community event and distinguish them from a Commercial event.
3. **Certainty of Event:** Adopt policy to provide Certainty of Event at an early stage in the application process for Community Events.
4. **Editorial Control of attendees:** Vest Editorial Control of Stallholders/attendees with the community event organiser.
5. **Light Touch Policy:** Continue a Light Touch Policy with regard to administration of community events.
6. **Commercial Interest and Intellectual Rights:** Recognition that the Commercial Interest and Intellectual Rights are vested with event organisers.
7. **Licence fee tariff:** To adopt and publish a clear, transparent licence fee tariff.
8. **Community Test:** To incorporate a Community Test into the application process to determine if the event is Community or commercial.
9. **Scale of fee discount/waiver:** To have a sliding scale of fee discount/waiver according to the correlation between the "Community Test" and event objectives.
10. **Single multi licence application:** To introduce a single multi licence application for Community events.
11. **Restrict the operational times:** To restrict the operational times of existing pavement licences so as not to conflict with licensed Market Events.
12. **Christmas Light licences:** To discontinue the repeat issuing of Christmas Light licences or waive the fee.

Further expansion of these suggestions together with the rationale is given below:

### **1.0 A Common Strategic Policy:**

Differing geographic areas within the Borough will have their own local concerns and objectives that they wish to address, promote or raise funds for when organising a community event. Examples:

- The Ruislip Manor Chamber of Commerce generally organise events to promote retailers in Ruislip Manor and boost foot fall.
- Hayes Carnival is essentially arts based.
- Eastcote organises events to raise money for Community projects.
- 'Stop HS2' may wish to organise an event to promote their cause.

It is a natural occurrence that people in different communities will swing behind a cause or event with differing levels of enthusiasm dependent upon their passion, dedication and whether or not they are in an affected group by the cause.

The draft policy document lacks any strategic statement or commitment towards the encouragement and support of *Localism and Community Events*. We believe the policy should be tailored towards a local agenda; in a similar way to the 'Pride' program. The Authority should be seen to act as an 'Enabler' to encourage Community events and reflect this through a common strategic policy.

### **2.0 Define a Community Event**

We believe the Authority should define a Community Event, we note the draft policy does not do so. Event organisers should be asked to state their objectives in organising an event at the outset of the application process. The objectives could then be assessed against the definition (the Community Test) as the basis of deciding whether an event is, or is not, a Community event.

The correlation between the Authorities definition and the community event objectives could then be used as the basis for deciding upon:

- Fee waivers or discounts
- Simplified application process

### **3.0 Certainty of Event:**

Community events are organised by a volunteer workforce and primarily funded by way of funds raised within that community. It is essential that the Authority provide community organisers with **Certainty of Event** at an early stage in the process, certainly prior to organisers having to incur cost. Community organisers require comfort in the knowledge that once conditional permission is given 'in principle' that a Community event may proceed,

We believe the draft policy needs to establish who is responsible for giving the conditional consent in principle and the process for appeal; in the event that an organiser feels it has been unreasonably withheld.

Consent in principle and the certainty of event which flows from that should be one of the distinguishing features between commercial and community events. It seems entirely reasonable

that a commercial event organiser or market operator whose motive is purely profit driven, should not enjoy the same protection as a community organiser who has satisfied the "Community Test". The Authority may well feel it appropriate to pursue a commercial application for a market in far greater detail before giving consent.

The draft policy proposes that a Community organiser would have to fund and obtain permission for road closures as a pre requisite to making a community event application - It should work the other way round - where by the Authority has informal discussions, gives consent in principle to the event and only then requires the community organiser to fund and apply for road closure.

#### **4.0 Editorial Control over Attendees:**

Community event organisers need to and should be encouraged to bring in outside commercial traders to local events; these traders bring interest, diversity and crucially an audience for the event, boosting footfall.

A Community Event which consists purely of local traders will fail because it has no differential interest to the public to any normal trading day. A good community event will tailor its trade stands in order to appeal to the events target audience or so as to meet the events objectives/theme.

We believe that the inclusion of a particular trader within a community event should be a matter for the community event organiser to decide upon.

In 2010 a debate ensued over the continental market which reflected the differing attitudes of local geographic regions to particular profiles of traders. In Uxbridge the local businesses feared and opposed the continental market believing that it would take business away from the regular market.

In Eastcote the continental market was positively encouraged, to the extent that local traders contributed to the cost of promoting the continental market. Eastcote traders benefitted from a substantial increase in trade whilst the continental market was in Eastcote. This experience reaffirms our belief that it is the community organiser that should have **editorial control over their events trade stalls/attendees** rather than officers or members of the council.

All community events rely upon the goodwill and finance of the local business Community without which it would be impossible to organise a community event. Accordingly local market forces will dictate which commercial traders are acceptable at local events. If community organisers bring in outside commercial organisations which conflict with the local traders the event organisers will lose the support of the local business community and the event will fail. The process is naturally self regulatory.

When determining whether to grant a single licence Market under the Food Act we would respectfully remind the authority that they are determining the principle of the market and not if specific stall holders should participate in that market. This change of emphasis to "the Market" from the stallholder is one of the principle attractions to community organisers of the Food Act as it should lead to:

- An early decision in principle.
- Certainty of event.

- Editorial control over stallholders by community organisers.
- Opening up of a revenue stream to event organisers from the sale of market pitches.

#### **5.0 A Light Touch policy:**

Historically the Authority has operated a light touch policy when dealing with the administration of community events and taken a flexible approach to imposing Safety Advisory Group approval upon community organisers. The Authority has allowed a simplified application process for licensing of community events permitting master applications for community stall holders and waiving the need for community organisers to produce proof of address, national insurance numbers, photos of stalls and stall operators etc. The draft policy currently makes no provision for a continuance of the light touch policy, the application process being identical regardless of whether the application is made by a commercial operator or community organisation. The Authority is urged to reflect upon this and relax its procedures for community organisations.

We would recommend a flexible risk assessed approach to granting of a licence for community events; whereby the policy simply states that the granting of a market licence to a community organiser will be subject to the terms and conditions as the authority deems appropriate.

Whilst we accept that the current regulatory framework for licensing is only relevant to street trading conditions, the authorities statutory obligations extend to all public events. Currently the authorities approach to regulation and enforcement is based on venue and commercial content rather than looking at the event and asking is the kind of event we wish to support and encourage? This has resulted in some peculiar anomalies within the borough for example The Duck Pond Market which is a commercial for profit event, which arguably conflicts with local traders is unregulated with regard to food hygiene standards, stallholders are required to produce only a 1 million Public liability policy, whereas a Residents Association attending a street event is required to produce a 5 million policy, Duck Pond Market also enjoys a competitive advantage as stallholders are able to obtain a pitch for less than the current daily street trading licence fee. We are not advocating that we wish to see other events regulated just simply that the authority tailors its response and requirements as appropriate to community events.

We understand that a principle difference between Street Trade licensing using LLA and the Food Act is that under the LLA statutory obligations remain with the Authority, whereas it is now proposed that these will be transferred to the Market Operator (Community organiser) under the Food Act.

The transfer of statutory obligations onto Community organisers will be daunting prospect for many Community organisers who will be risk adverse and feel unable to take these responsibilities on. Community organisers will not be able to regulate specialised areas such as Trading Standards, Food Hygiene, Health & Safety, Environmental Issues (Noise, waste, pollution) and regulation of Fairgrounds without considerable training. Public liability insurance costs also escalate considerably for Community organisers organising an event under the Food Act rather than Street Trading regulations.



For the reasons stated above the Authority is strongly urged to continue to pursue its soft touch approach with regard to Community events and to question whether it really needs to apply the same application process to community events as commercial events.

When considering the application process and in particular notice periods the Authority is asked to take into account the fact that community events rely entirely upon a volunteer workforce which by its very nature is transient and last minute. The Local Church, Women's Institute etc may well indicate that they wish to participate in a Community event but in practice will not know until the last moment whether they are able to, until their volunteers actually turn up on the day. They certainly will not be able to commit weeks in advance of an event as to the identity of individual volunteers. Accordingly getting Community stall holders to submit photos of proposed stands or volunteers; in advance of the event is both impractical and unworkable. The same is true of accurately identifying the activity of community stall holders, they may intend to do face painting and sell craft products but actually end up just giving out leaflets because the appropriate volunteers are not available.

The costs of complying with the minimum requirements of SAG (based on Eastcote's Experience) are at least £12,000. Compliance with SAG was a principle contributor to the demise of the Ruislip Victorian Evening. It is understood that Big Fest & Hayes Carnival have an organisational cost of approximately £40,000, coincidentally this is a similar cost claimed by the Rickmansworth Festival and the initial Budget of the proposed Eastcote Christmas Festival. By comparison Ruislip Manor Fun days cost approximately £3,000 each. It is therefore imperative that the new draft proposals for street trading and licensing which transfer the statutory obligations of the local Authority to the organiser; do not lead to a backdoor imposition of SAG and that community events continue to benefit from the light touch approach

#### **6.0 Commercial Interest and Intellectual Rights:**

We note that under the LLA the Authority is prohibited from making a profit from the cost of issuing a license and that the basis of the Act is to recognise the basic right to trade, the Authority being limited to recovering its direct cost of administering and meeting its statutory obligations. Under the Food Act the principle of a commercial interest is established where by an organiser creates a market of 3 stalls or more. The commercial interest is always vested with the event organiser and not the local Authority. It is the event organiser that creates the event, promotes the event and is ultimately responsible for the success/failure of the event. Successful events will over time establish themselves and gain a reputation as being a worthwhile event to attend from a traders view point. This in turn will lead to a willingness on behalf of commercial operators to pay a premium stall fee/rent in order to attend established and high footfall events. This surplus of revenue over market fee cost may then be appropriately used by the community organiser to fund and promote the event or for redistribution within the community to achieve the community objectives of holding the event. We would therefore urge the authority to restrict future market licence fee increases to inflationary rises and not to treat community events which may become successful as a potential revenue source; we trust the authority will recognise that the intellectual rights , branding and event name will be vested in law with the creators of the event.

### **7.0 Licence Fee tariff:**

The draft policy document does not set out any licence fee tariff for the issuing of the single market licence under the Food Act. We understand that the fees for Street trading licences issued under LLA have already been set by cabinet and published. As our response to the consultation is purely concerned with community events and we understand that all community events will be licensed under the Food Act using the single licence system, we will contain our response to the single licence fee which is yet to be published.

We understand that it is the practice of many local authorities to set a daily fee in the range of £300 - £500 per market. We also understand that Hillingdon charges circa £400 per day to commercial operators to hire parks to hold events such as Circuses and Fun Fairs. We believe that commercial market forces would indicate therefore that the ceiling licence fee for a commercial market is likely to be in the region of £300 per day, but that this figure is only likely to be achieved for premier Town Centre spaces such as Uxbridge. Secondary locations such as Eastcote or Ruislip Manor will command a lesser fee from commercial operators.

The Council has indicated a past and future willingness to discount and waive fees for community events and we have early in this document presented the arguments for the Council to support, enable and encourage community events. We would therefore urge the council to adopt a policy where by those events which meet the Community Test would always benefit from a discounted fee, the level of discount being at the discretion of the council.

We would urge the council to resist basing the single market fee upon the number of stalls or by size of a community event as this confuses the principle of the legislation and seeks to effectively tax local communities on the success of their events. It also conflicts with the principles of commercial interest and intellectual property presented earlier. We would urge the council to take into account that the move to the single licence market represents a considerably cost saving to the council and eliminates the previous correlation between cost and number of stalls attending which existed under the LLA licensing regime. The Cost and administrative savings which are achieved under the single licence market are of course directly transferred to and will be borne by the event/market organiser.

### **8.0 Community Test:**

The community test concept has been discussed elsewhere in this document and therefore is briefly summarised as a mechanism whereby the stated objectives of holding an event are compared against the council's definition of a community event in order to unlock a simplified application process and market fee discount.

### **9.0 Scale of fee discount/waiver:**

To have a sliding scale of fee discount/waiver according to the correlation between the "Community Test" and event objectives as referred to earlier for community events.

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#### **10.0 Single multi licence application:**

There are currently a multitude of licenses required when organising a community event, for example: A Temporary Event notice, An Advertising Banner Licence, A licence to hold an event on the Public Highway, and the proposed single market licence.

Is it possible for the Council to extend the single licence/single fee policy for community events so that only one application and one fee need be submitted to cover all the licence requirements of community events?

#### **11.0 Restrict the operational times of existing Pavement licences:**

It is our understanding that existing pavement and table chairs licences will continue to be issued under the LLA and that under the Act the council has the right to grant those licences to operate at hours and times it sees fit with regard to pedestrian safety.

Generally speaking there is a borough wide problem where by holders of those licences will push past the boundaries of those licences in order to maximise their selling space. On the rare days a year when a community event is held in the street the pavements become very congested and these shop front displays pose a genuine health and safety issue and often make it impossible for wheelchairs and prams to pass by. We would urge the council to amend the operational hours of these licences to the effect that the licence may not be operated on days when a community event/market is in operation.

#### **12.0 Christmas Light licences:**

The Council currently requires an annual licence application and a fee of £140 each year for permission for local communities to have Christmas lights on lamp columns and sometimes the actual licence is not issued until into the New Year. We appreciate that it is necessary to obtain a licence for the initial installation but cannot see the logic or cost justification for requiring it annual particularly on a repeat installation.

DEAR STEPHANIE

IN RESPONSE TO CHANGES TO THE REGULATION OF STREET TRADING  
ACTIVITIES  
LONDON LOCAL AUTHORITIES ACT 1990 (AS AMENDED) FOOD ACT 1984.

Thank you for asking me to take part in this consultation, having met you and various members past and present working in this section, you all have been very helpful and forthcoming in making my job of organising events easier.

I believe that a lot of thought has been put into this document and you have made the applications more amenable and helpful to one and all.

In the section 13.0 A Single Licence for Markets

I am pleased that my request for one application form will now be used.

15.0 Charity & Community Markets

Suggestion: Where road closures are required, approval must be obtained in principle from the Highway Authority before the market application is made. Evidence of the approval will be required as part of the market application.  
(Reason to save time and initial fees before approval from your department)

In conclusion a first class document covering all the aspects required, if you require any more help please do not hesitate to call me.

Kind regards

Les Drussel  
Chair for BMCC

